

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**RE: INVESTIGATION REGARDING
SERVICE QUALITY GUIDELINES
ESTABLISHED IN DTE 99-84**

DTE 04-116

**RESPONSE OF THE UTILITY WORKERS UNION OF AMERICA
TO DEPARTMENT'S FIRST SET OF INFORMATION REQUESTS
PROPOUNDED TO IBEW AND UWUA**

The Utility Workers Union of America (UWUA) and its Locals 273, 369 and 654 hereby respond to the "First Set of Information Requests of the Department of Telecommunications and Energy to the International Brotherhood of Electrical Workers and the Utility Workers' Union of America." The responses are appended below.

Respectfully submitted,
Utility Workers Union of America

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DTE-U 1-1 Refer to UWUA Comments at 2. Please list all states with inspection and maintenance programs and describe their programs. Explain how a program should be implemented in Massachusetts, its costs, and its bill impact.

California: In Investigation #I. 95-02-015, the California Public Utilities Commission (“CPUC”) approved Decision # D. 97-03-070 (March 31, 1997), which established “Inspection Cycles for Electric Distribution Facilities.” Those inspection cycles are now incorporated into CPUC General Order (“G.O.”) Number 165, available at www.cpuc.ca.gov/Published/General_order/617.PDF. The stated “purpose of this General Order is to establish minimum requirements for electric distribution facilities, regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record-keeping, and reporting, in order to ensure safe and high-quality electrical service.” In broad terms, G.O. 165 mandates that each covered utility “shall conduct inspections of its distribution facilities” no less frequently than specified for each type of equipment (transformers, switching/protective devices, regulators/capacitors, overhead conductors and cable, streetlighting, and wood poles) and for each type of location (rural v. urban).

Under G.O. 165, electric utilities must “patrol” (defined as “visually inspect”) all of the above-listed categories of equipment at least annually in urban areas, and at least biennially in rural areas. Utilities must conduct “detailed” inspections (defined as “where individual pieces of equipment and structures are carefully examined, visually and through use of routine diagnostic tests”) of most categories of equipment every three to five years, depending on the category of equipment. However, streetlights need only be “patrolled” on the annual/biennial basis for urban and rural areas just summarized; there is no requirement that they be subject to “detailed” inspections. Also, wood poles are not subject to “detailed” inspections. Instead, wood poles that have been in the ground at least 15 years must be “intrusively” inspected every ten years; if they previously passed an inspection, they need not be “intrusively” tested for another 20 years.

Utilities were required to submit compliance plans for carrying out these inspections and reporting obligations by July 1997, and have been filing their annual reports ever since. The reports identify the number of “facilities” (e.g., number of poles or miles of lines) that have been inspected during the reporting period; the number that were scheduled for inspection but not actually inspected, with an explanation of why not; and a date certain by which any missing inspections will occur. The reports also detail the condition of the equipment inspected, including the percentage of inspected equipment identified as needing corrective action.

Knowledgeable CPUC staff report that the major utilities generally have filed their reports and conducted the inspections required by G.O. 165. One major utility has been cited by the CPUC for not recording and correcting conditions that in fact need correction as required by G.O. 165. G.O. 165 has largely succeeded at its goals: most companies apparently are in full compliance, and the reports allow regulators to identify non-compliance and take corrective actions.

New York: As UWUA noted in its March 1, 2005 “Initial Comments,” p. 24 & n. 41, the New York State Public Service Commission (“NYPSC”) recently issued an Order Instituting Safety Standards, NYPSC Docket 04-M-0159 (Jan. 5, 2005). As the Order notes at the very outset, the docket was opened “[i]n the aftermath of the tragic death of a New York City resident in January 2004,” the result of a stray voltage incident like the many recent stray voltage incidents in Massachusetts. (The full order is available at [http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/42A2610C8997920F85256F80004DC25D/\\$File/04m0159.pdf?OpenElement](http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/42A2610C8997920F85256F80004DC25D/$File/04m0159.pdf?OpenElement)). The Order, in Appendix A, adopts “Electric Safety Standards” (“Standards”). Under the Standards, electric companies must annually test for stray voltage on a range of facilities including streetlights and publicly-accessible manholes, service boxes, and transformer vaults. (Standards, Section 3). Companies must also visually examine at least once every five years: towers, poles, guy wires, risers, overhead cables and conductors, transformers, breakers, switches, and other aboveground facilities, and the interior of manholes, service boxes, vaults, and other underground structures. (Standards, Section 4). Companies must keep records that track stray voltage testing dates and results as well as inspections of all other facilities, which records are subject to review and audit by the NYPSC staff. (Standards, Section 6). Annually, companies must file reports detailing the results of the stray voltage tests and compliance with the other inspection requirements. (Standards, Section 9). Companies are required to perform stray voltage testing on 100% of covered facilities each year. Since other equipment need only be inspected once every five years, the annual “target” is to inspect 20% of the covered equipment each year, but companies need only reach 85% of the “target” amount of inspections in year one, ramping up to 100% of the target amount in year five of the program.

Other states: UWUA does not have information available that would allow it to provide a detailed list and description of “all [other] states with inspection and maintenance programs,” at the level of depth provided for the description of the California and New York programs. UWUA, however, briefly notes the following. The Public Utilities Commission of Ohio (“PUCO”) requires electric companies to routinely inspect their systems. Ohio Adm. Code 4901:1-10-27. The distribution system must be inspected on a five-year cycle (one-fifth of the system each year), and the transmission system annually. Substations must be inspected monthly. Further, each electric utility must file written plans for approval by the PUCO that fully detail how they will inspect, maintain, repair, and provide for periodic replacement of all of the major categories of distribution and transmission facilities. The Pennsylvania Public Utility Commission (“PAPUC”) requires that each electric distribution company “shall make periodic inspections of its equipment and facilities in accordance with good practice and in a manner satisfactory to the Commission.” 52 Pa. Adm. Code § 57.194(c). PAPUC staff closely review and monitor the inspection and maintenance programs of distribution companies, regarding “overhead line inspections, switching and protective devices, regulators and capacitors, transformers, underground equipment and pole inspections.” PAPUC Docket No. M-00021619, Order dated August 29, 2002, p. 8. While the Commission has noted that companies do inspect their equipment on periodic cycles, it has not mandated a uniform inspection cycle for all companies but instead relies on the companies to routinely report that they have performed their

periodic inspections and made the replacements and maintenance that those inspections identify as necessary. *Id.*

Implementation, costs and bill impacts: UWUA recommends that inspection and maintenance guidelines should be adopted by the Commission after a notice-and-comment rulemaking proceeding in which all interested parties would have a fair and reasonable opportunity to offer their views. UWUA also strongly recommends that Department staff should develop a proposed set of inspection and maintenance guidelines that would be the starting point for discussions and comment, rather than simply issuing a notice soliciting comments. The latter approach of just issuing notice, without a staff proposal, is far more likely to lead to a more chaotic and protracted proceeding. The former approach was the one taken in California and New York.

In terms of the cost to utilities (and, ultimately, ratepayers) of implementing inspection and maintenance guidelines, UWUA points the Department to the NYPSC's discussion of this issue in docket 04-M-0159 (Jan. 5, 2005), at 50 - 52. First, the PSC noted that the "costs of not adopting the standards could be much higher" than the costs of "mandating and implementing the safety standards," in terms of adverse impacts on public safety and reliability. Second, the PSC also noted that the incremental costs of mandated visual inspections may not be significant, given the extent to which companies already inspect their systems. The PSC therefore did not "approve cost recovery for any utility at this time," but established ground rules under which utilities could recover any incremental costs based on "supporting documentation and workpapers of its costs for implementing safety standards." UWUA agrees with the NYPSC's approach that costs should carefully be considered "to ensure that electric rates remain just and reasonable," but also agrees that it is difficult to judge those costs in advance of companies providing documentation and workpapers. It is therefore not possible for UWUA at the present to estimate those costs, or any ensuing rate impacts.

DTE-U 1-2 Please explain why inspection and maintenance guidelines are easier to administer and monitor for [the] Department, in contrast to the Department's current SQ guidelines.

Inspection and maintenance ("I&M") guidelines are easier to administer and monitor because there would be little or no dispute about what is being measured, performed or reported. For example, a company will report that it either has, or has not, inspected the required number of poles in any given year and that it has, or has not, repaired or replaced poles identified as defective through the inspection process. The process will be far more transparent, in the sense that any interested party can easily understand what is being measured and reported and whether any particular company is in compliance.

By contrast, the current regime of SQ guidelines lead to ongoing debate and disagreement about what is being measured; what lies behind the reported figures; and the meaningfulness of the reported data. For example, at least one company (Bay State) reports negative "unaccounted for ages," which gives rise to questions that have yet to be answered. Parties continue to debate whether offsets should be allowed, and, if allowed, the rules under which offsets can be applied. The Department itself continues to ask whether benchmarks can be standardized across companies, with no resolution of that issue in sight. Various parties regularly propose (or oppose) the addition or deletion of standards, arguing over whether the current list of standards is as complete as it should be and whether each standard is in fact relevant to protecting service quality. In various SQ dockets, utility companies and other parties have filed dozens of pages of comments regarding benchmarking for reliability standards; which types of "major events" should be excluded from measuring system reliability; and related technical issues. The Department itself has asked extensive questions about the benchmarks for outages and reliability and, in particular, the usefulness of IEEE Standard 1366-2003, as well as the measurement of line losses.

Compared to the many technical, definitional, and relevance issues raised by the SQ guidelines, inspection and maintenance guidelines incorporate clear and simple mandates and result in the filing of easy-to-review reports that appear to have engendered little debate in the jurisdictions that have adopted guidelines.

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Person Responsible: Brian McCarthy, UWUA National

DTE-U 1-3 Refer to IBEW Comments at 8-13. Please describe how gas and electric distribution companies would (1) maintain files of contract employees' credentials and (2) guarantee the certification of contract employees.

A: At the present time, UWUA has no information available that is responsive to IBEW's comments, pages 8 - 13.

DTE 04-116 Persons Responsible: Gary Sullivan, Ted Teal, Kevin Friary and Brian McCarthy

DTE-U 1-4 Refer to the employees described in UWUA's Reply at 4. For each gas and electric distribution company, please provide a listing in Excel format of employees by department, position, and titles for the years 1997 through 2004. Please indicate which employees are union members.

UWUA is unable to respond to this information request. UWUA believes that the distribution companies maintain data that would, in whole or in large part, respond to the Department's request for staffing levels sorted by department, position, and title, and further sorted by year. The companies do not fully share this information with UWUA locals, and the locals therefore cannot respond. In particular, the UWUA locals have no information of their own regarding head counts among management positions or head counts at companies whose workers are not represented by Local 273, 369 or 654, except to the extent that they have reviewed publicly-filed service quality (SQ) reports in the various SQ dockets.

UWUA has reviewed the service quality reports that NSTAR and Bay State have filed and has filed comments in this docket regarding declines in those staffing levels over time. See "Initial Comments of the Utility Workers Union of America," p. 10 (overview of Bay State's staffing level cuts between 1998 and 2003; citing underlying Bay State reports where staffing levels are reported), p. 12 (again summarizing cuts in Bay State staffing levels and also summarizing cuts in NSTAR staffing levels, citing underlying NSTAR service quality report). UWUA also recommended that the Department "allow parties reasonable discovery and hearing rights" so that UWUA could obtain staffing level data. See "Initial Comments of the Utility Workers Union of America," p. 25. In the absence of being allowed discovery, UWUA does not possess information regarding the staffing level questions the Department has posed.

In DTE 05-15/05-17/05-19/05-23, Local 369 filed comments regarding cuts in NSTAR staffing levels, with citation to the underlying NSTAR SQ reports. "Comments of Local 369," p. 4.

In DTE 05-12, Local 273 filed comments on cuts in Bay State staffing levels from 1998 to 2003 and included a table summarizing the data reported by Bay State. "Comments of Local 273," p. 2. The table shows significant and unexplained disparities between the historical staffing levels Bay State reported in 2003 (e.g. the staffing levels for years 1998 to 2003) versus as reported in 2004 (for those same years 1998 to 2003). Given the significant reporting disparities and the fact that Local 273 does not have independent access to staffing level data, Local 273 asked **"that parties be granted the right to file reasonable discovery of Bay State's 2004 SQ Report of staffing levels."** "Comments of Local 273," DTE 05-12, p. 2 (emphasis in original). To date, the Department has not allowed parties to file discovery, and Local 273 therefore cannot provide further information about Bay State's staffing levels.

DTE-U 1-5 Please provide any documents that outline that outline agreements between the union and company that would authorize changes in the staffing numbers, such as early retirement packages, negotiated raises, etc., for all employees.

Response for Local 273/Bay State (production and maintenance workers):

The collective bargaining agreement (“CBA”) between Local 273 (production and maintenance employees) and Bay State does not directly address changes in staffing levels *per se*. However, there are several Articles of the CBA which indirectly address changes in staffing levels or specify early retirement provisions. Article XI. 1(a) generally provides protections against layoffs for employees hired prior to March 2, 2002 during the term of the agreement, which ends on March 1, 2008. There are certain additional protections in Article XI. 1(b) against payoffs or reductions in pay grade for employees who have at least five years of experience. Article XI. 3(a) provides that layoffs shall generally be made in reverse order of seniority, that is, employees with the fewest years of service shall be furloughed first. Article XI. 6 provides for severance allowances, earned at the rate of one week of base pay for each year of continuous service. Article XII. 2 allows employees who are at least 55 years old and who have worked for the company for at least 10 years to take early retirement, with the level of the pension generally increasing based on the employee’s age and with additional pension benefits for employees with 25 years or more of service. The early retirement provisions of Article XII. 2 are not tied to or triggered by changes in staffing levels but simply describe pension benefits to which employees are entitled if they reach a certain age and have a certain number of years of experience.

The CBA does not specify, by number or formula, any particular staffing level for the positions represented by Local 273.

Local 273 notes that many of these provisions for production and maintenance workers (or similar predecessor provisions) were adopted prior to passage of the Restructuring Act and are not tied to the staffing level requirements of that Act.

Response for Local 273/Bay State (clerical and technical workers):

The collective bargaining agreement (“CBA”) between Local 273 (clerical and technical workers) and Bay State does not directly address changes in staffing levels *per se*. However, there are certain Articles of the CBA which indirectly address changes in staffing levels or specify early retirement packages. Article XI. 2 provides that layoffs shall generally be made in reverse order of seniority, that is, employees with the fewest years of service shall be laid off first. Article XII. 2 provides for early retirement at age 60, with no reduction in the pension benefit if the employee has at least 25 years of experience.

The CBA does not specify, by number or formula, any particular staffing level for the positions represented by Local 273.

Local 273 again notes that many of these provisions for clerical and technical workers (or

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similar predecessor provisions) were adopted prior to passage of the Restructuring Act and are not tied to the staffing level requirements of that Act.

Response for Local 369/NSTAR

The collective bargaining agreement (“CBA”) between Local 369 and NSTAR does not directly address changes in staffing levels *per se*. However, Article XVII. 14 provides, in relevant part: “When forces are reduced, the employee having the least seniority . . . shall be demoted or laid off first.”

Response for Local 654 (physical workers):

As provided in Article XVIII, § 1 of the collective bargaining agreement between NGRID and Local 654: “The Union agrees that for the term of this agreement, all requirements of the Electricity Restructuring Act of 1997, including Section 1E related to staffing levels have been satisfied and that this agreement is a collective bargaining agreement under that language.”

UWUA is filing hard-copies of the relevant portions of these CBAs with the Department and will provide copies to other parties upon request.

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Response prepared by Brian McCarthy, UWUA National

DTE-U 1-6 Please provide the number of new employees each local distribution company would need to hire to have the same number of employees it had in 1997. Detail how the number was derived and what positions would be created or filled.

Please see the response to DTE-U 1-4. At the present time, UWUA does not have adequate information regarding historic or current staffing levels at the distribution companies to answer this question.